ZONING COMMISSIONER OF BALTIMORE COUNTY

Case No. 92-426-A Legal Owner: 9690 Deereco Rd. * Limited Partnership Contract Purchaser:Ralphies Diner, Inc., Petitioners

. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Variance from Section 413.6.b.1 & 2 of the Baltimore County Zoning Regulations (B.C.Z.R.) for that property located at 9690 Deereco Road in the Timonium section of Baltimore County. Specifically, the Petitioner seeks relief from the strict application of the regulations as they relate to a proposed sign on the property. The subject property contains an 8 story office building with a supporting parking lot. The proposed variance applies to a commercial use within the building, known as Ralphies Diner. The Petitioner seeks approval to permit an oversized sign for this restaurant on site.

Appearing in support of the Petition were Hersch Pachino and Michael Pachino, officers in that corporate entity known as Ralphies Diner, Inc., which operates the restaurant. Also appearing was Alan F. Nethen, whose company will prepare the sign. The Petitioners were represented by G. Warren Mix, Esquire. There were no Protestants present.

Testimony and evidence offered at the hearing is that the restaurant use has been in its present location for three (3) years. Unlike the more common arrangement wherein a restaurant use is housed within its own building, Ralphies Diner is located on the ground floor of an 8 story office

building on Deereco Road near the intersection with Padonia Road. Due to this arrangement, Mr. Michael Pachino testified that his customers frequently are unable to find the restaurant. He stated that the restaurant receives calls on a frequent basis from patrons who have been unable to locate the restaurant. Mr. Hersch Pachino echoed these comments. In fact, he is aware of instances of patrons who drive by the restaurant looking for a separate facility and do not realize that the use is located within the office building. Further, both Messrs. Pachino testified that their landlord, Riparius Development Corporation, supports the sign and that the sign will be tasteful and consistent with the surrounding locale.

Also testifying was Alan F. Nethen who described the sign. He noted particularly that Ralphies Diner, Inc. utilizes a unique logo. This logo includes a winged design with the lettering of the establishment surrounding a clock which is centered within the sign. Mr. Nethen noted that the proposed sign will be tastefully designed and will feature internal illumination. Most importantly, he noted County regulations which require that the area of the sign be computed as if it were rectangular. That is, the roughly triangular shaped sign which is proposed is actually only approximately 30 ft. in square area notwithstanding the fact that it is computed to be much larger under the regulations.

In addition to the above testimony regarding a variance as to the area of the sign, Mr. Nethen also testified in support of the variance to allow the sign to be 14 ft. in height. He noted that the sign will be located on the grass strip between Deereco Road and the internal driveway accessing the office building. Due to the sign's placement, it must be the height requested so as to not interfere with site distance from vehicles exiting the facility. Further, a shorter height would eliminate the

-2-

utility of the sign and its visibility from Padonia Road, the closest intersection with Deereco Road.

In addition to summarizing the testimony and evidence presented at the public hearing, a response is in order to the recommendation from the Department of Planning and Zoning as set forth in their Zoning Advisory comment dated May 16, 1992. Within that unsigned comment, it is recommended that the Petition be denied. As reasons for this position, it is suggested that the area is not strictly retail oriented and that the proposed sign is not in scale with the surrounding signs of other businesses.

Although this immediate locale is not exclusively retail, there is no residential use in this vicinity. That is, the sign will not adversely impact any residential community or be seen from any residential neighborhood. Further, my personal familiarity with this area leads me to take issue with the comment that the proposed sign is not in scale with existing signs in the area. Located immediately across the street from the subject site is a Dennys Restaurant/Days Inn. This use features a large sign not only at the corner of Deereco and Padonia Roads but near the entrance to the hotel/restaurant. The sign at that entrance identifies not only the nature of the business thereon but also contains a message board. The proposed sign for Ralphies Diner is clearly less in area than that sign.

Notwithstanding the Zoning Advisory comment offered, but based upon the testimony and evidence presented at the hearing, as well as my personal knowledge of this site, it is my opinion that the relief requested sufficiently complies with the requirements of Section 307 of the B.C.Z.R. and, therefore, should be granted. In my view, the granting of the subject variance will not adversely affect the health, safety and/or general

-3-

welfare of the public. Further, I believe that strict compliance with the B.C.Z.R. will result in practical difficulty and/or unreasonable hardship upon the Petitioners. My findings in this regard are based upon the uncommon location of the restaurant within an office building and the driveway/parking alignment which justifies an increased height for the proposed

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore 1992 that a variance from Section 413.6.b.1 & 2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a freestanding sign of 50 sq. ft. per face and 14 ft. 0 inches high overall, in lieu of the 25 sq. ft. and 6 ft. 0 inches high, for that property located at 9690 Deereco Road (Ralphies Diner), in accordance with Petitioner's Exhibit No. 1, be and is hereby GRANTED, subject, however, to the following restriction which are conditions precedent to the relief granted herein:

1. The Petitioner may apply for its building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

ÁWRENCE E. SCHMIDT

Zoning Commissioner for Baltimore County

A RECEIVED FOR FILING

CHORES IN CONTRACTOR Office of Planning and Zoning

Towson, MD 21204

(410) 887-4386

June 24, 1992

G. Warren Mix, Esquire Turnbull, Mix and Farmer 706 Washington Avenue

> RE: Case No. 92-426-A Petition for Zoning Variance Ralphies Diner, Inc., Contract Purchasers 9690 Deereco Road Ltd. Partnership, Legal Owner

Enclosed please find the decision rendered in the above captioned cases. The Petition for Zoning Variance has been granted, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the

> Lawrence E. Schmidt Zoning Commissioner

LES:mmn att. cc: Mr. Alan F. Nethen Petition for Variance to the Zoning Commissioner of Baltimore County for the property located at 9690 Decreco Road, Timonium, Maryland

which is presently zoned ML-IM This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s)

413.6 b.1. & 2. of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or

practical difficulty) To permit a freestanding business sign of 50 square feet per face and 14'-0" high overall. In lieu of the 25 square foot, 6'-0" high sign that is permitted. A sign of this size is required to give adequate notice to customer of the location of the entrance to the Restaurant.

Property is to be posted and advertised as prescribed by Zoning Regulations. t, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

		We do solemnly declare and affirm, under the penal legal corner(s) of the property which is the subject of the	ities of perjury, that Unre are the his Petition.
act Putchaser/Lessee:		Legal Owner(s).	
Ralphies Diner, Inc.	·	9690 Deereco Road Limited	Partnership
Westles Preside		(Type or Print Name) By: Rigarius Development By: KFL Signature	Congenation General feature Parishert
9690 Deereco Road		(Type or Print Name)	
Timonium, image	L093	•	
sum ney for Petitioner: To be named later if requi	Zipcode ired.	Riparius Corporation 375 W. Padonia Road	561-8813
or Print Name)		Address	Phone No.
		Timonium, Maryland	21093
sture		City Star Name, Address and phone number of legal owner, or to be contacted.	
		Alan F. Nethen	
esa Phone No.	,	Name 1808 Cherry Hill Road	685-7575
State	Zipcode	Address Baltimore, MD 21230	Phone No.
		ESTIMATED LENGTH OF HEAPING UNIVERSAL STATEMENT OF HEAPING	
	1		
	•	the following dates	Next Two Months

DESCRIPTION OF PROPERTY KNOWN AS 9690 DEERECO ROAD FOR A FREESTANDING SIGN VARIANCE FOR RALPHIE'S DINER.

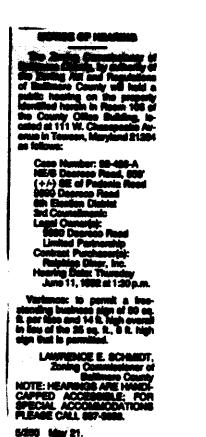
Beginning at a point on the north east side of Deereco Road which is 60 feet wide at the distance of 748 feet south east of the centerline of the nearest improved intersecting street Padonia Road which is 80' wide.

Thence in a south easterly direction 5'-0"; thence in a north easterly direction 20'-0"; thence in a north westerly direction 5'-0"; thence in a south westerly direction 20'-0" to the point of beginning.

The above description is for a 5'-0" x 20'-0" plot of land onto which will be placed a freestanding sign, and is part of that plat of land as recorded among the land records of Baltimore County in Libra 2004, Folio 670.



Parison 9690 Darrow Rd Portnershing + Rolphis Dini Inc Location of Signer Focusing Danvers RJ , on fraporty to be 7040 d.



CERTIFICATE OF PUBLICATION

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of _ weeks, the first publication appearing on \bot

THE JEFFERSONIAN.

\$44.73

Suite 113 Courthouse 400 Washington Avenue

Towson, Maryland 21204

Dear Mr. Mix:

date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Claude Neon Signs, Inc.

887-3353

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Baltimore County Government Office of Zoning Administration and Development Management

Office of Planning & Zoning

111 West Chesapeake Avenue Towson, MD 21204

May 28, 1992

Mr. Hersh Pachino 9690 Deereco Road Limited Prtnrshp Riparius Corporation 375 W. Padonia Road Timonium, MD 21093

RE: Item No. 450, Case No. 92-426-A Petitioner: 9690 Deereco Rd Lmtd Prtnshp Petition for Variance

Dear Mr. Pachino:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by Zoning personnel.

BALTIMORE COURTY MARYEAND

OFFICE OF HINANCE REVENUE OWNERD TO THE COURT OF THE COU

Baltimore Cour Zoning Commissioner County Office Building

6/09/98

Account: R 001-6150

M980066 4 PUBLIC HEALING FEES OBO -FOSTING SIGNS / ADVERTISING 1 / 509,003

T01AL: \$17.73 LAST NAME OF OWNER: 9690 DEERCO ROAD

Please Make Chatal Day State State State County \$79.73

Baltimore County Government Office of Zoning Administration and Development Management Office of Planning & Zoning

111 West Chesapeake Avenue Towson, MD 21204

887-3353

Your petition has been received and accepted for filing this 20th day of March, 1992.

Petitioner: 9690 Deereco Road Limited Partnership Petitioner's Attorney:

Baltimore County Government Office of Zoning Administration and Development Management Office of Planning & Zoning

111 West Chesapeake Avenue Towson, MD 21204

(410) 887-3353

DATE: 61192

9690 Deereco Road Timonium, Maryland 21093

CASE NUMBER: 92-426-A ME/S Deereco Road, 550' (+/-) SE of Padonia Road 9690 Deereco Road 8th Election District - 3rd Councilmenic Legal Owner(s): 9690 Deereco Road Limited Partnership Contract Purchaser(s): Ralphies Diner, Inc.

Dear Petitioner(s):

Please be advised that \$ 79.73 is due for advertising and posting of the above captioned.

THIS FEE MOST BE PAID AND THE ZOMING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please forward your check via return mail to the Zoning Office, County Office Building, 111 W. Chesapsake Avenue, Room 113, Towson, Maryland 21204. It should have your case number noted thereon and be made payable to Baltimore County, Haryland. In order to prevent delay of the issuance of proper credit and/or your Order, immediate attention to this matter is suggested.

92-426-A

May 26, 1992

SUBJECT: Ralphies Diner

SUMMARY OF RECOMMENDATIONS:

high business sign.

sign is not required.

Office of Planning and Zoning

MEMORANDUM

Petitioner:

BALTIMORE COUNTY, MARYLAND

OFFICE OF PLANNING AND ZONING New Courts Bldg - 401 Bosley Avenue, Towson, MD 21204

Arnold Jablon, Director - Zoning Administration & Development Management

9690 Deereco Road Limited Partnership

The petitioner is requesting a variance to allow a free standing business sign of

50 square feet and 14 feet high in lieu of the required 25 square feet and 6 feet

The Office of Planning and Zoning recommends the petitioner's request be DENIED.

This business is located on the first floor of an office building on Deereco

Road. The character of the area is not strictly retail oriented but rather a

A business sign with the dimensions allowed by the Zoning Regulations would be

more than sufficient to identify the location of the restaurant.

mixed use of warehousing, offices and scattered retail. The business sign that this petitioner is proposing would not be in scale with the surrounding signs of the other businesses. Also, the location of this business has excellent visual exposure as automobiles approach the site from both directions and such a large

Baltimore County Government Office of Zoning Administration and Development Management Office of Planning & Zoning

111 West Chesapeake Avenue Towson, MD 21204

(410) 887-3353

NOTICE OF HEARING

Building, located at 111 W. Chesapeake Avenue in Townon, Maryland 21204 as follows:

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office

CASE NUMBER: 92-426-A NE/S Deereco Road, 550' (+/-) SE of Padonia Road 9690 Deereco Road 8th Election District - 3rd Councilmenic Legal Owner(s): 9690 Deereco Road Limited Partnership Contract Purchaser(s): Ralphies Diner, Inc. HEARING: THURSDAY, JUNE 11, 1992 at 1:30 p.m.

Variance to permit a free-standing business sign of 50 sq. ft. per face and 14 ft. high overall in lieu of the 25 sq. ft., 6 ft. high sign that is permitted.

Baltimore County

cc: Riparius Corporation Alan F. Nethen Ralphies Diner, Inc.

NOTE: HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.





700 East Joppa Road Suite 901 Towson, MD 21204-5500

MAY 13, 1992

(301) 887-4500

Arnold Jablon Director Zoning Administration and Development Management Baltimore County Office Building Towson, MD 21204

RE: Property Owner: 9690 DEERECO ROAD LIMITED PARTNERSHIP

#9690 DEERECO ROAD

Item No.: +450(JJS) Zoning Agenda: MAY 11, 1992

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

7. The Fire Prevention Bureau has no comments at this time.

Special Inspection Division

Fire Prevention Bureau



450. ZAC/ZAC1

FM: rdn

Pg. 1

ZONING OFFICE

Department of Recreation and Parks Development Review Committee Response Form

Authorized signature

Date 18 May 12 9690 Deereco Road Limited Partnership 5-11-92 VEU DETRI RE SIE IE Orville Jones DED DEPRM RP STP TE Harbor Realty Partnership Jerald H. And Brenda D. Windes DED DEPRM RP STP TE Daniel C. And Susan E. Gutkin DED DEPRM RP STP TE Donald And Anne Kahn DED DEPRM RP STP TE Signet Bank, Maryland DED DEPRM RP STP TE DED DEPRM RP STP TE A. Eric And Esther J. Dott UEU DEPRI RE SIE IE DED DEPRM RP STP TE / William J. And Mary Jane Kramer DED DEPRM RP STP TE Douglas B. And Judith A. Celmar

DPW/Traffic Engineering Development Review Committee Response Form Authorized signature File Number Meeting Date 9690 Deereco Road Limited Partnership 5-11-92 DED DEPRM RP STP TE DED DEPRM RP STP TE Harbor Realty Partnership Jerald H. And Brenda D. Windes DED DEPRM RP STP TE Daniel C. And Susan E. Gutkin DED DEPRM RP STP TE Donald And Anne Kahn DED DEPRM RP STP TE Signet Bank, Maryland DED DEPRM RP STP TE A. Eric And Esther J. Dott William J. And Mary Jane Kramer Douglas B. And Judith A. Celmar

DPW/Developers Engineering Division (Public Services) 05/18/92 File Number 9690 Deereco Road Limited Partnership **DED DEPRM RP STP TE** DED DEPRM RP STP TE Harbor Realty Partnership DED DEPRM RP STP TE Jerald H. And Brenda D. Windes DED DEPRM RP STP TE Daniel C. And Susan E. Gutkin DED DEPRM RP STP TE DED DEPRM RP STP TE Signet Bank, Maryland DED DEPRM RP STP TE DED DEPRM RP STP TE A. Eric And Esther J. Dott DED DEPRM RP STP TE William J. And Mary Jane Kramer Douglas B. And Judith A. Celmar COUNT 11

Project Name file Number Meeting Date 7610 Bay Front Road 3301 Edwards Lane (Parkside Marina) 207 St. Marys Road DEPRM (AT CBCA) Broadview II (Related to CRG refinement) COUNT 4 √ 9690 Deereco Road Limited Partnership 5-11-92 No lomments DED DEPRM RP STP TE . Harbor Realty Partnership 100 Comments DED DEPRM RP STP TE Jerald H. And Brenda D. Windes Daniel C. And Susan E. Gutkin DED DEPRM RP STP TE Donald And Anne Kahn DED DEPRM RP STP TE Signet Bank, Maryland Wo Comments DED DEPRM RP STP TE

LAW OFFICES TURNBULL, MIX & FARMER 706 WASHINGTON AVENUE TOWSON, MARYLAND 21204 OF COUNSEL WILLIAM E. HAMMOND (410) 898-0700 107 MAIN STREET (410) 825-1517 (410) 833-1322 FAX (410) 828-5086 JOHN GRASON TURNBULL (1909-1964) OCEAN CITY OFFICE May 21, 1992 210 N. 15TH STREET OCEAN CITY, MD 21849

Lawrence E. Schmidt, Zoning Commissioner Baltimore County Government Office of Planning and Zoning 111 West Chesapeake Avenue Towson, Maryland 21204

RE: Case No. 92-426-A 9690 Deereco Road Ralphie's Diner - Petition for Variance

Ralphie's Diner - Petition for Dear Mr. Schmidt:

Please enter my appearance as counsel for the Petitioner in the above captioned matter. It is my understanding a hearing is scheduled for Thursday, June 11, 1992 at 1:30 p.m.

TURNBULL, MIX & FARMER

**Company of the company of

Very truly yours,

GWM/dn

G. WARREN MIX

JAMES R. FARMER

DOUGLAS T. SACHSE

PATRICK J. PERKINS

GREGORY E. HAMMOND



6253-92

